REMARKS

Office Action Summary

In the Official Action of November 7, 2008 ("Official Action"), claims 1, 3-5, 8-10, 24, 26-27, 30, and 44-51 were pending. Claims 1, 24, 44, and 51 are the independent claims, and each is presently amended. No claims are presently added or cancelled. Thus, claims 1, 3-5, 8-10, 24, 26-27, 30, and 44-51 will be pending following this response and entry of the current amendments.

All pending claims were rejected in the Official action for the following reasons:

- Claims 1, 4-5, 8, 24, 26-27, 44, 46-48, and 51 stand rejected under 35 USC § 103(a) as being unpatentable over Chow, US Patent Publication 2002/0156720 ("Chow"), in view of Bhuyan, US Patent 7,158,998 ("Bhuyan").
- Claims 3 and 45 stand rejected under 35 USC § 103(a) as being unpatentable over Chow in view of Bhuyan, and further in view of Rousseau, US Patent Publication 2002/0165815 ("Rousseau").
- Claims 9-10 and 49-50 stand rejected under 35 USC § 103(a) as being unpatentable over Chow in view of Bhuyan, and further in view of applicant admission of prior art.

This response and the present amendments are filed together with a request for continued examination. The amendments and claim rejections are discussed below. The examiner is respectfully urged to reconsider the application and withdraw the rejections in view of the following remarks. Should the examiner have any questions or concerns that might be efficiently resolved by way of a telephonic interview, the examiner is invited to call applicants' undersigned attorney, Jon M. Isaacson, at **206-332-1102**.

Rejections under 35 USC § 103(a)

Claims 1, 4-5, 8, 24, 26-27, 44, 46-48, and 51 stand rejected under 35 USC § 103(a) as being unpatentable over Chow in view of Bhuyan. Claims 3 and 45 stand rejected under 35 USC § 103(a) as being unpatentable over Chow in view of Bhuyan, and further in view of Rousseau.

Claims 9-10 and 49-50 stand rejected under 35 USC § 103(a) as being unpatentable over Chow in view of Bhuyan, and further in view of applicant admission of prior art.

Claim 1, as presently amended, recites, in part, "determining, at said middleware tier, an available account number *while said host processing system is unavailable*." (Emphasis on present amendment.) Applicants respectfully submit that neither the cited portions of Chow nor the cited portions of Bhuyan, individually or in combination, teach or suggest the above-cited recitation of claim 1. In the Official Action, the examiner asserts that Chow's application server 120 is "middleware" and that database 112, workflow system 150, and security processing system 190 are host processing systems. (See Official Action, page 2.) The examiner further cites to Chow's abstract as teaching the "determining, at said middleware tier, an available account number" recitation of claim 1. Chow's abstract states, in full:

> A system and method for processing a brokerage account application in a substantially real-time environment, where ***a host system*** retrieves Applicant data via a distributed network, communicates with a credit bureau system to obtain credit decisioning and approval; ***establishes an Applicant account, activates the account*** and obtains a username and password, which, upon receipt, allows the Applicant/account-holder to begin placing trades.

(Emphasis added.) Applicants respectfully submit that Chow's abstract teaches that a host system establishes an account, but fails to teach or suggest determining an available account number *at a middleware tier* while the host processing system is unavailable. This interpretation of Chow's abstract is confirmed later in Chow where Chow discusses how an account is opened:

> If the Applicant 1 is approved [for a new brokerage account], *one or more account databases 112 are accessed by the Application Server 120 to open…a brokerage account* with a pre-established trading limit (e.g., $15,000) and associate the account with the approved Applicant 1 (STEP 92, FIG. 2).

(Chow, para. 0026; emphasis added.) According to Chow, once it is determined that the customer can open a new account, application server 120 accesses account database 112 to open the new account. Applying the examiner's assertion that Chow's application server 120 is middleware and Chow's database 112 is a host system, Chow teaches that the middleware must access the host system to determine the new account information, presumably including the

account number. In contrast, claim 1 recites that the account number is determined *at a middleware tier* while the host processing system is unavailable.

Further to understanding this difference between claim 1 and Chow, Chow requires the host system to be available to determine new account information while claim 1 recites that the host system is not available. Chow teaches that the application server 120 communicates with database 112 to determine the new account information. Before determining the account number at a middleware tier, claim 1 recites "determining, at said middleware tier, that said host processing system is unavailable." Thus, while claim 1 recites that the host processing system is unavailable when the account number is determined at the middleware tier, Chow requires the database 112 to be available to determine the new account information. Therefore, Chow cannot determine an account number at a middleware tier because it requires a host system database to be operative and connected.

Applicants further submit that the cited portions of Bhuyan fail to cure the deficiencies of Chow. Bhuyan is not cited for this purpose and Applicants cannot discern any of the cited portions of Bhuyan which teach or suggest "determining, at said middleware tier, an available account number while said host processing system is unavailable," as recited by claim 1.

For at least these reasons, applicants respectfully submit that claim 1, as presently amended is patentably defined over the cited art. Accordingly, applicants request withdrawal of the rejection of claim 1 as unpatentable under 35 USC § 103(a).

Independent **claims 24, 44, and 51** are presently amended to contain recitations similar to the recitations of claim 1 discussed above. For at least the reasons discussed above regarding claim 1, applicants respectfully submit that claims 24, 44, and 51 are patentably defined over the cited art. Accordingly, applicants request withdrawal of the rejection of claims 24, 44, and 51 as unpatentable under 35 USC § 103(a).

Dependent **claims 3-5, 8-9, 26-27, 30, and 45-50** depend, directly or indirectly, from claims 1, 24, and 44. For at least the reasons discussed above regarding claim 1, 24, and 44, applicants respectfully submit that claims 3-5, 8-9, 26-27, 30, and 45-50 are patentably defined

over the cited art. Accordingly, applicants request withdrawal of the rejection of claims 3-5, 8-9, 26-27, 30, and 45-50 as unpatentable under 35 USC § 103(a).

Conclusion

Applicants believe that the present remarks are responsive to each of the points raised by the examiner in the Official Action, and submit that claims 1, 3-5, 8-9, 24, 26-27, 30, and 44-51 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the examiner's earliest convenience is earnestly solicited.

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/Jon M. Isaacson/
Jon M. Isaacson
Registration No. 60,436

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439